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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/993,796	11/15/2001	Jeffrey C. Ostler	5741.11	5978

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KIRTON AND MCCONKIE  
1800 EAGLE GATE TOWER  
60 EAST SOUTH TEMPLE  
P O BOX 45120  
SALT LAKE CITY, UT 84145-0120

EXAMINER

BUTLER, MICHAEL E

ART UNIT	PAPER NUMBER
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3653

DATE MAILED: 09/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.  
**09/993,796**

Applicant(s)  
**Ostler**

Examiner  
**Michael E. Butler**

Art Unit  
**3653**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on Mar 3, 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above, claim(s) 1-18 and 27-33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-25 is/are rejected.
- 7) ☒ Claim(s) 26 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 6) ☐ Other:

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## **DETAILED ACTION**

### ***Restart Response Period***

1. The Office Action of 7/28/04 omitted the applied Ford reference (US 2,256,976) from the form '892 nor was that reference included with the rest of the references. Applicant's representative notified the examiner 8/4/04 as the examiner was departing on vacation, examiner phoned the representative with the reference number 8/12/04 and offer of restarted response period, but the voicemail was not received by representative. A re-mailing of the office action along with restart of the response period, and updated form 892 is being sent. An attempt to remail the missing reference is being made, but a change in reference mailing policy subsequent the initial mailing might result in blocking of the mailing of the previously omitted reference.

### ***Drawings***

2. Drawings are acceptable.

### ***Election/Restriction***

3. Applicant's election of invention II with traverse of the restriction requirement in Paper No. 11 is acknowledged and made final.

4. Claims 1-18 and 27-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless --

- (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.
- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States
- (c) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

6. Claim(s) 19-21 is/are rejected under 35 U.S.C. 102(b) as being anticipated by

Gyimothy which discloses all the claimed elements including:

(Re: cl 19) A system comprising: at least one slanted channel capable of receiving a plurality of rounded capsules; a delivery chute (12) ,  
slanted channel being open-ended so as to communicate with said delivery chute (20/21);

and a movable capsule transport located beneath said delivery chute and adapted to transport at least one of said rounded capsules from said delivery chute to a desired location (30 fig 13; c6 L 15-34)

(Re: cl 20) delivery chute moves in a substantially vertical direction when said transport moves (c4 L 4-21)

(Re: cl 21) delivery chute is attached to said transport via a pivot bar that moves said delivery chute when said transport is moved (9).

7. Claim(s) 19 is/are rejected under 35 U.S.C. 102(e) as being anticipated by Zhang

et al. which discloses all the claimed elements including:

(Re: cl 19) A system comprising: at least one slanted channel capable of receiving a plurality of rounded capsules;

a delivery chute (c4 L 1-34),

said slanted channel being open-ended so as to communicate with said delivery chute 35;

and a movable capsule transport located beneath said delivery chute and adapted to transport at least one of said rounded capsules from said delivery chute to a desired location (44).

8. Claim(s) 19, 22-25 is/are rejected under 35 U.S.C. 102(b) as being anticipated by

Ford which discloses all the claimed elements including:

(Re: cl 19) A system comprising: at least one slanted channel capable of receiving a plurality of rounded capsules (p1 c1 L 44-c2 L 5);

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a delivery chute, said slanted channel being open-ended so as to communicate with said delivery chute (between 66/67 below  $\frac{3}{4}$  & above D);  
and a movable capsule transport located beneath said delivery chute and adapted to transport at least one of said rounded capsules from said delivery chute to a desired location (D)

(Re: cl 22) rotating disc is electronically activated and only after insertion of a token into an electronic token slot (p3 c1 L 11-67)

(Re: cl 23) comprising a plurality of slanted channels and wherein said slanted channels all lie in one plane (C fig 1)

(Re: cl 24) slanted channels all slant in one direction (C fig 1)

(Re: cl 26) delivery chute is movable within the same plane as the plane created by the slanted channels and wherein the transport is movable within a plane substantially perpendicular to said plane created by the slanted channels.

(Re: cl 25) rounded capsules have a four inch diameter (p1 c1 L 44-c2 L 5).

***Allowable Subject Matter***

9. Claim 26 is objected to as being dependent claims premised upon a rejected base claim but would be allowed if the re-written in independent form or if the limitations of an allowable claim were incorporated within the independent base claim from which this claims depend or if re-written premised upon dependence from an otherwise allowable base claim.

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***Conclusion***


10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exmr. Michael E. Butler whose telephone number is (703) 308-8344.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh, can be reached on (703) 306-4173. The fax number for the Group is (703) 305-7687.

*Michael E. Butler*

Michael E. Butler  
Examiner

  
DONALD F. WALSH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600